

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA
3 UNITED STATES OF AMERICA,
4 Plaintiff,
5 and
6 OSAGE MINERALS COUNCIL,
7 Intervenor-Plaintiff,
8 vs. No. 14-cv-704-GKF-JFJ
9 OSAGE WIND, LLC,
10 ENEL KANSAS, LLC;
11 and ENEL GREEN POWER
12 NORTH AMERICA, INC.,
13 Defendants.
14
15
16 ZOOM/VIDEOTAPED DEPOSITION OF 30(b)(6) WITNESS
17 STEPHEN PIKE
18 TAKEN ON BEHALF OF THE PLAINTIFF
19 ON SEPTEMBER 30, 2021, BEGINNING AT 10:02 A.M.
20 ALL PARTIES APPEARING VIA ZOOM
21
22 APPEARANCES
23 On behalf of the PLAINTIFF:
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(Appearances continued on next page.)
VIDEOTAPED BY: Greg Brown
REPORTED BY: Jane McConnell, CSR RPR RMR CRR

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1 appropriate general setback distance would be around
2 the wind turbines for all conditions. I am prepared
3 to talk about the setback or buffer zone for mining
4 activities.

5 Q Okay.

6 MR. ASHWORTH: I would certify that
7 question for review by the Court.

8 Q (BY MR. ASHWORTH) Sir, what would be the
9 appropriate setback requirement relative to mining
10 activities around wind turbines at the Osage Wind
11 project?

12 A An appropriate setback would be a 90-foot
13 radius around the center of the wind turbine.

14 Q Okay. And what do you base that off of?

15 A We base that off of an assessment of the
16 structural stability of the wind turbine.

17 (Exhibit 207 marked for identification.)

18 Q (BY MR. ASHWORTH) Okay. I'm going to
19 pull up what I'm going to mark as Exhibit 207, and
20 it's going to be a document that we received last
21 night at midnight from the defendants entitled
22 "Safety Radius Around Turbines Memo."

23 A Okay.

24 Q Can you see this document in front of you,
25 sir?

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1 A So the structural stability of the wind
2 turbine relies on the stability of the foundation
3 and the foundation and the weight of the materials
4 above the footing of the foundation. So to keep the
5 stability of the turbine, you need to keep the soils
6 above the foundation of the wind turbine.

7 Q Okay. So it's the defendants' position
8 that the minerals within this no excavation zone is
9 being used as -- or it's providing structural
10 support for the towers, and because of that no
11 excavation can take place within this zone; is that
12 correct?

13 A It is correct that the materials above the
14 wind turbine foundation footing, the weight of those
15 materials is helping to provide structural support
16 for the wind turbine.

17 Q What about the minerals outside of the
18 footing but within the 90-feet radius of a wind
19 tower at the Osage wind farm, are those minerals --

20 A Those --

21 Q Let me finish it. Are those minerals
22 providing support to the wind turbines?

23 MR. BALL: Objection to form. You can
24 answer.

25 A So those materials are not providing

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1 that the minerals in between 26 feet and 90 feet,
2 within that area, those minerals are being used to
3 provide lateral support to the minerals located
4 within 26 feet of the center of the wind towers?

5 A That is correct based on these
6 calculations, yes.

7 Q Okay. And if those minerals were to be
8 removed, the wind towers would become unstable;
9 is that correct?

10 MR. BALL: Objection to form.

11 A Not under all conditions would it be
12 unstable. The design of a wind turbine foundation
13 is for a number of different cases and conditions,
14 and the worst case of that, the highest wind, for
15 example, would dictate the ultimate design of the
16 foundation.

17 So characterizing it as unstable because
18 the materials were removed not generally unstable
19 could be under the right conditions.

20 Q (BY MR. ASHWORTH) Okay. So by removing
21 the materials or minerals that's in this zone
22 between 26 feet and 90-feet radius outside of the
23 wind tower, by removing those it has the potential
24 to affect the stability of the wind tower; is that
25 correct?

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1 A I think that is a fair statement, correct.

2 Q Okay. So it is the defendants' position
3 that the Osage Minerals Council cannot develop the
4 minerals within this no excavation zone because if
5 they do, it has the potential of harming the
6 stability or affecting the stability of these wind
7 towers; is that correct?

8 A That is correct.

9 Q And it's the defendants' position that
10 the Osage Minerals Council is not able to mine
11 minerals from within this no excavation zone;
12 is that correct?

13 A That is correct.

14 Q Is it the defendants' position that the
15 Osage -- scratch that.

16 Is it the defendants' position that the
17 minerals within this 90-foot radius are inaccessible
18 to the Osage Minerals Council?

19 A That is correct.

20 Q Is it the defendants' position that the
21 Osage Minerals Council can mine or develop the
22 minerals 91 feet away from the wind towers?

23 A That is correct.

24 Q It would be the defendants' position that
25 if the Osage Minerals Council were to develop the

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1 requirements that would give the safe buffer zone
2 around the turbine.

3 Q This buffer zone relates to structural
4 integrity and not safety of actual individuals?

5 MR. BALL: Objection to form;
6 mischaracterizes the witness' testimony. You can
7 answer.

8 A These calculations are relative to the
9 structural stability of the wind turbine, correct.

10 Q (BY MR. ASHWORTH) Are you aware that
11 studies have taken place about blade throw in the
12 industry? Scratch that. Let me re-ask this.

13 Have you reviewed any documents showing
14 studies of blade throws, blade throw?

15 A I don't recall reviewing any studies
16 relative to blade throw.

17 Q Are you aware that certain studies have
18 shown that wind powers of 1.5 megawatt can throw
19 blades up to 1,900 feet away?

20 A I'm unaware of the study that comes to the
21 conclusion that you referenced.

22 Q Okay. And you would agree that when blade
23 throw does occur, if anyone is nearby, it could
24 cause a risk to them; correct?

25 MR. BALL: Objection to form and outside

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1 MR. BALL: Objection. It

2 mischaracterizes --

3 Q (BY MR. ASHWORTH) Whether --

4 MR. BALL: It mischaracterizes -- go
5 ahead.

6 Q (BY MR. ASHWORTH) Whether for bedding or
7 for padding?

8 A I am not aware of any rocks being crushed
9 to provide bedding and padding for the collection
10 system.

11 Q Okay. What would be one of the reasons
12 other than that -- scratch that. What would be one
13 of the reasons -- scratch that.

14 Sir, as to the materials that were
15 excavated relative to the construction of the
16 collector systems, did the materials serve any
17 purpose other than being used as backfill?

18 A I can't think of a reason that the
19 materials excavated would be used for anything
20 other than backfill, no.

21 Q Okay. Well, that was a terrible question.

22 MR. BALL: Objection to form.

23 Q (BY MR. ASHWORTH) Did the excavated
24 materials provide any benefit to the collector
25 systems when used as backfill?

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1 MR. BALL: Objection to form.

2 A Yes. The materials that were excavated
3 and put back in the ground provide for the cover
4 over the buried electrical cable.

5 Q (BY MR. ASHWORTH) Did they provide
6 thermal insulation for the cables?

7 A I think anything around the cable would be
8 providing thermal insulation.

9 Q I'm sorry. Did you say -- are you saying
10 that you think that anything or are you testifying
11 that anything used would provide thermal insulation?

12 MR. BALL: Objection to form;
13 mischaracterizes the witness' testimony. You can
14 answer it.

15 A I'm saying that anything around a cable
16 is providing some level of thermal insulation or
17 resistance for it. All differ, the types would
18 differ and the capability would differ, but anything
19 is providing insulation.

20 Q (BY MR. ASHWORTH) Do you understand that
21 some materials are not suitable to serve as thermal
22 insulation for these transmission cables; correct?

23 A I understand that, yes.

24 Q Okay. And if the materials that were
25 excavated were not suitable for use as thermal

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1 insulation, they would not have been used; correct?

2 A That is correct.

3 Q And if they were suitable for use as
4 thermal backfill or thermal insulation, they would
5 have been used for that purpose; correct?

6 MR. BALL: Objection to form.

7 A Again, there is a certain zone for thermal
8 backfill around a conductor or a collector system
9 cable. If they were suitable, I would assume, yes,
10 they were used. And if they were not suitable, I
11 would assume they were not used.

12 Q (BY MR. ASHWORTH) Okay. According to
13 the defendants, was the excavated material used for
14 the purpose of providing thermal insulation to the
15 cables relative to the collector systems?

16 MR. BALL: Objection; form.

17 A Again, as I stated before, any material
18 will provide some level of thermal insulation. And
19 if it was deemed suitable, it would have been used
20 for the thermal backfill. And if it was not, it
21 would not have been.

22 Q (BY MR. ASHWORTH) So your testimony is
23 yes?

24 MR. BALL: Objection to form.

25 Q (BY MR. ASHWORTH) Is that correct?

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